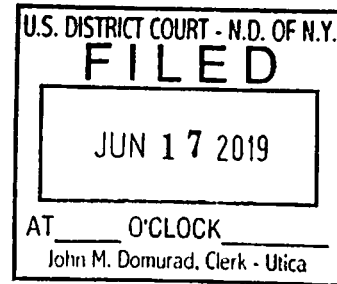


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK



CAYUGA NATION, CLINT HALFTOWN,
TIMOTHY TWOGUNS, GARY WHEELER,
DONALD JIMERSON, MICHAEL
BARRINGER, RICHARD LYNCH, B.J.
RADFORD, AND JOHN DOES 8-20,

Plaintiffs,

v.

HOWARD TANNER, VILLAGE
OF UNION SPRINGS CODE ENFORCEMENT
OFFICER, IN HIS OFFICIAL CAPACITY;
BUD SHATTUCK, VILLAGE OF UNION
SPRINGS MAYOR, IN HIS OFFICIAL
CAPACITY; CHAD HAYDEN, VILLAGE OF
UNION SPRINGS ATTORNEY, IN HIS
OFFICIAL CAPACITY; BOARD OF
TRUSTEES OF THE VILLAGE OF UNION
SPRINGS, NEW YORK; AND THE VILLAGE
OF UNION SPRINGS, NEW YORK,

Defendants.

No. 5:14-cv-1317-DNH-ATB

STIPULATION

Plaintiffs and Defendants, by and through their respective counsel of record, hereby stipulate as follows:

WHEREAS Plaintiffs contend that the 1794 Treaty of Canandaigua created a federal reservation for the Cayuga Nation that has never been disestablished by an act of Congress and remains in existence under controlling law;

WHEREAS Defendants have filed a counterclaim contesting whether the Cayuga Nation possesses a federal reservation;

WHEREAS Defendants acknowledge that, under current precedent, the Cayuga Nation today possesses a federal reservation that has not been disestablished, such precedent including the decision of Judge Siragusa in the Western District of New York dismissing a similar counterclaim to the one filed by Defendants. *See Cayuga Indian Nation of N.Y. v. Seneca Cty.*, 260 F. Supp. 3d 290, 307-15 (W.D.N.Y. 2017); *see also Oneida Indian Nation of New York v. City of Sherrill, New York*, 337 F.3d 139, 158 (2d Cir. 2003), *rev'd and remanded on other grounds sub nom. City of Sherrill, N.Y. v. Oneida Indian Nation of New York*, 544 U.S. 197 (2005); *Oneida Indian Nation of New York v. Madison Cty., Oneida Cty., N.Y.*, 605 F.3d 149, 158 (2d Cir. 2010), *vacated and remanded as moot sub nom. Madison Cty., N.Y. v. Oneida Indian Nation of New York*, 562 U.S. 42 (2011); *Cayuga Indian Nation of N.Y. v. Village of Union Springs*, 317 F. Supp. 2d 128, 131-33 (N.D.N.Y. 2004), *vacated on other grounds*, 390 F. Supp. 2d 203 (N.D.N.Y. 2005); *see generally Nebraska v. Parker*, 136 S. Ct. 1072, 1081 (2016); *Solem v. Bartlett*, 465 U.S. 463, 466-72 (1984);

WHEREAS Defendants wish to preserve for appeal their arguments that existing precedent should be modified or should be deemed not to apply to this case, as well as to preserve any arguments that may be based on the U.S. Supreme Court's decision in *Carpenter v. Murphy* (Docket No. 17-1107), which is currently pending and is expected to be decided before the end of June 2019, any other future decision of the U.S. Supreme

Court, or any other future decision of any other court that constitutes or reflects a change in law;

WHEREAS the parties seek to proceed with an expeditious resolution of the matters in dispute in the instant case, and avoid unnecessary delay and expense;

IT IS HEREBY STIPULATED AND AGREED THAT:

1. Accompanying this stipulation, Plaintiffs have filed a motion to dismiss Defendants' counterclaim based on the existing precedent cited above;
2. By so-ordering this stipulation, the Court may grant Plaintiffs' motion to dismiss Defendants' counterclaim based on current precedent, including but not limited to the precedent identified above, without further briefing or argument, consistent with Judge Sirgusa's dismissal of a similar counterclaim in *Cayuga Indian Nation of N.Y. v. Seneca Cty.*, 260 F. Supp. 3d 290, 307-15 (W.D.N.Y. 2017);
3. Defendants fully reserve their right to argue on appeal that existing precedent should be modified, overruled, or deemed not to apply to this case, and to raise any arguments that may be based on the U.S. Supreme Court's decision in *Carpenter v. Murphy* (Docket No. 17-1107), any other future decision of the U.S. Supreme Court, or any other future decision of any other court that constitutes or reflects a change in law.

On behalf of Plaintiffs:

By: /s/ David W. DeBruin
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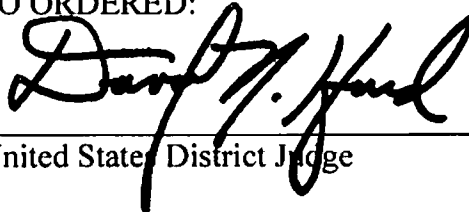
On behalf of Defendants:

By: /s/ David H. Tennant
David H. Tennant
Law Office of David Tennant PLLC
3349 Monroe Avenue
Suite 345
Rochester, New York 14618
(585) 708-9338

DATE:

6/17/2019

SO ORDERED:



United States District Judge